

TOWN OF NEWMARKET

186 Main Street
Newmarket, NH 03857

APPLICATION/PERMIT FOR SIDEWALK CAFÉ LICENSE

THIS IS NOT A PERMIT UNTIL APPROVED BY THE CODE ENFORCEMENT OFFICER

Name of business _____

Address _____

Owner _____

Telephone _____

Tax Map _____ Lot _____ Zone _____

Please read Ordinance 20092010-07 Regulating the Licensure of Sidewalk Cafes.

A detailed plan of the proposed seating arrangement and layout of pedestrian corridors shall be attached to this application, every time you apply.

This permit must be displayed along with any other State and Local permits.

Permit fee \$50.00 – Checks or money orders only please.

Owner's signature _____

Date of application _____

Approved _____ Denied _____ Date _____

Code Enforcement Officer

Sidewalk café tables and chairs allowed April 1st to November 1st.

REAPPLICATION FOR PERMIT REQUIRED EACH YEAR

**TOWN OF NEWMARKET, NEW HAMPSHIRE
AMENDMENT TO
ORDINANCE #20092010-07
REGULATING THE LICENSURE OF SIDEWALK CAFES**

WHEREAS, The Newmarket Town Council finds that the creation of sidewalk cafes should be properly regulated in order to protect and promote the public health, safety and welfare of its citizens; and

WHEREAS, the Newmarket Town Council finds that the sidewalk cafes within the public right-of-way in the downtown area, when properly located, provide a positive benefit to the community;

NOW THEREFORE BE IT RESOLVED, that the Newmarket Town Council ordains the adoption of this Ordinance for the purposes as stated herein.

Section 1. Permit Standards

A "Sidewalk Café" is permitted as an extension of any permitted restaurant after demonstration of compliance with the following standards:

- a. A detailed plan of the proposed seating arrangement and layout of pedestrian corridors; pedestrian corridors for sidewalk use and restaurant access shall be maintained in a manner that does not disrupt pedestrian traffic flow and have an unobstructed travel way that is a minimum of 36" in width;
- b. Seats and tables shall be structurally sound;
- c. Placement of a sidewalk café or outdoor seating shall be limited to the area of sidewalk directly in front of the restaurant establishment;
- d. Provide proof of a \$1,000,000 liability insurance policy, which names the Town as a co-insured entity; and
- e. Location of the seats and tables will not jeopardize the health, safety, license and welfare of the general public and tables and chairs shall be placed not closer than two (2) feet to the sidewalk curb; and
- f. Tables, chairs, and benches shall be allowed, from April 1st through November 1st and shall be removed from the sidewalks at all other times of the year; and
- g. Permittees shall be responsible to maintain the orderly placement and cleanliness of the area in front of their establishment. Permittees shall ensure that paper, dishware, flatware, cigarettes, etc. are removed from

tables and the surrounding sidewalk so as to ensure the aesthetics of the area and downtown are maintained.

Section 2. Duration

Each sidewalk café area shall be permitted on a yearly basis from April 1st through November 1st. Request for renewals shall be evaluated based on the previous year's compliance with the standards cited above and all other applicable local regulations.

Section 3. Licensing Process

- a. License applications shall be made to the Code Enforcement Officer, on forms prescribed by the Town Administrator. The Application shall be reviewed based on the standards noted in Section 1 of this Ordinance.
- b. The license application shall be acted upon within thirty (30) days of submittal. If not acted on within that time frame, the application will be considered approved.
- c. If the application is denied, the applicant shall be notified, in writing, within seven (7) days of the denial. Such written notification will include an explanation of the reasons for denial.
- d. Each license granted under this Ordinance is granted on the condition that all provisions of this Ordinance shall be complied with. Any violation of any term of this Ordinance constitutes a violation of the conditional granting of the license itself.
- e. If the town believes that such a violation has occurred, the Code Enforcement Officer shall notify the holder of the license in writing of the nature of the violation.

Section 4. Licensing Fees

The license fees shall be \$50.00, or as amended from time to time by action of the Town Council.

Section 5. Appeals

Applicants may appeal the denial of an application to the Town Council.

Section 6. Damage to Obstructions

Any damage by any cause whatsoever, will be at the sole expense of the obstruction owner.

Section 7. Hold Harmless

Every person or other entity which places or maintains an obstruction on a public sidewalk in the town shall file a written statement with the Town Clerk satisfactory to the Town Attorney, whereby he/she or it agrees to indemnify and

hold harmless the Town, its officers, Council members and employees, for bodily or personal injury, and for property damage sustained by any person as a result of the installation, use or maintenance of such obstruction.

Section 8. Severability

The provisions of this Ordinance are severable. If any provision of this Ordinance or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance.

Section 9. Injunction

Any violation of this Ordinance is hereby declared to be a nuisance. In addition to any other relief provided by this Ordinance, the town Attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuance of any violation of this Ordinance. Such application for relief may include seeking a temporary restraining order, preliminary injunction and permanent in junction. The Town Attorney may also sue for damages on behalf of the Town.

Section 10. Penalty

Any person, firm or corporation violating any provision of this Ordinance shall be fined \$100.00 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Section 11. Effective Date

This Ordinance shall become effective upon its passage.

Introductory Date: February 17, 2010

Public Hearing Date: March 3, 2010

Second Reading Date: March 17, 2010

Final Action by Council: March 17, 2010

Approved: Michael LaBranche
Michael LaBranche, Town Council Chair

A TRUE AND ATTEST COPY: Becky I. Benvenuti
Becky I. Benvenuti, Town Clerk

